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**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**Docket Number (Optional)
DEP 652CON

In re Application of: John Serbousek, et al.

Application No.: 10/670,092

Filed: September 24, 2003

For: Prosthesis with Feature Aligned to Trabeculae

The owner*, DePuy Orthopaedics, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term **prior patent** No. 6,652,591 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said **prior patent** is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the **prior patent** are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the **prior patent**, "as the term of said **prior patent** is presently shortened by any terminal disclaimer," in the event that said **prior patent** later:

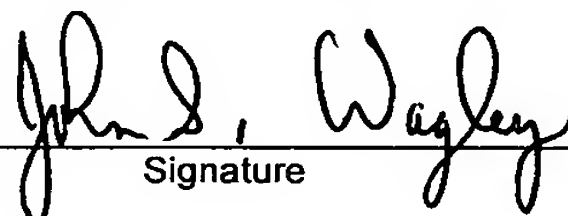
- expires for failure to pay a maintenance fee;
- is held unenforceable;
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- has all claims canceled by a reexamination certificate;
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- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 36,043


Signature

February 25, 2005
Date

John S. Wagley
Typed or printed name

(574) 372-7332
Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

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*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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DOCKET NO. DEP 652CON

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Serbousek, John, et al.

Serial No.: 10/670,092

Art Unit: 3732

Filed : September 24, 2003

Examiner: Candice C. Melson

For : Prosthesis with Feature Aligned to Trabeculae

I hereby certify that this correspondence is being deposited with the
United States Postal Service as first class mail in an envelope addressed
to: Commissioner for Patents, Alexandria, VA 22313-1450 on

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(Date of Deposit)

John S. Wagley

(Name of applicant, assignee, or Registered Representative)

John S. Wagley

(Signature)

February 25, 2005

(Date of Signature)

Commissioner For Patents
Alexandria, VA 22313-1450

AUTHORIZATION TO CHARGE
DEPOSIT ACCOUNT THEREFOR

Dear Sir:

A Terminal Disclaimer responding to the aforesaid Office Action is
being filed concurrently herewith.

Please charge Deposit Account No. 10-0750/DEP652CON/JSW in the name of
Johnson & Johnson for any cost associated with the Terminal Disclaimer
concurrently herewith. Three copies of this Petition are enclosed.

Respectfully submitted,

John S. Wagley

John S. Wagley
Reg. No. 36. 043
Attorney for Applicant(s)

Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003
(574) 372-7332
DATE: February 25, 2005